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10/658,785	09/09/2003	Daniel W. Britton	BJVE121690	1820

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EXAMINER

AVERY, BRIDGET D

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/658,785

Applicant(s)

BRITTON ET AL.

Examiner

Bridget Avery

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02/05/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02/05/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 8 objected to because of the following informalities: On line 2, "are" should be deleted. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte*

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*Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 12 recites the broad recitation "Body receptacle for a wheeled frame", and the claim also recites "in particular for the transportation of babies which can be fastened in the frame with at least one fastening element" which is the narrower statement of the range/limitation.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5-8, 10, 13-15, 17 and 22-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergeron (US Patent 4,729,572).

Bergeron teaches a body receptacle for a wheeled frame similar in style and shape to applicant's including:

- A fastening element
- A flexible mat (12) (see column 5, lines 51-56)
- Tensioning devices
- Padded sidewalls arranged on a portion of the sides
- A belt (46) running lengthwise along upper edges of the sidewall on each side of the mat
- Fastening elements on the belt (as shown on the attached chest strap in Figures 1 and 2)

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- The sleeves (56a, 56b) are made of a foamed material
- The sleeves (56a, 56b) are curved lengthwise, as shown in Figures 1 and 2
- The mat (12) has a concave shape
- The receptacle includes a raised padding (26a, 26b, 34) along the front edge of the mat (12)
- The length of the belts (46) can be adjusted at least at one of their ends, as shown in Figures 1 and 2 (see column 5, lines 21-29)
- The mat (12) is at least partially made from a textile fabric on the underside and includes a layer of foamed plastic forming a breathable padding on the top side of the textile fabric, as described in column 5, lines 51-56
- The lengthwise running belts (46) and sleeves (56a, 56b) are sewn into the textile fabric, as shown in Figures 1 and 2
- A restraint (note the chest strap shown in Figures 1 and 2) to retain a baby therein

4. Claims 1-7, 15, 22, 23 and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Makoski (US Patent 4,824,168).

Makoski teaches a body receptacle for a wheeled frame similar in style and shape to applicant's including:

- A fastening element
- A flexible mat (10) of textile fabric
- Tensioning devices

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- Padded sidewalls arranged on a portion of the sides, as clearly shown in Figure 3
- A belt (41) running lengthwise along upper edges of the sidewall on each side of the mat
- A raised padding along the front edge of the mat, as shown in Figure 3 (see column 2, lines 9-14
- A restraint (seat belt) to be attached via spaced apart slits (28), as described in column 3, lines 49-52
- A central opening (29) at a lower end of the mat for a crotch strap to be run therethrough

5. Claims 1-3, 16, 18-20 and 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Switlik (US Patent 5,219,203).

Switlik teaches a body receptacle for a wheeled frame similar in style and shape to applicant's including:

- A fastening element
- A flexible mat (10) of textile fabric
- Tensioning devices
- Padded sidewalls arranged on a portion of the sides, as clearly shown in Figure 3
- A strap (86) fastened to the backside of the mat and running crosswise to the mat's longitudinal axis and fastening elements (96) on the strap (86)
- A restraint (seat belt 66, 64) to be attached via spaced apart slits (28), as described in column 3, lines 49-52

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- A central opening (inherent) at a lower end of the mat for a crotch strap (68) to be run therethrough

6. Claims 1, 5, 8, 16, 17, 18, 22, 23, 25, 26, 28-31 and 33 are rejected under 35

U.S.C. 102(b) as being anticipated by Hinkston et al. (US Patent 5,785,333).

Hinkston et al. teaches a body receptacle for a wheeled frame similar in style and shape to applicant's including:

- A fastening element
- A flexible mat (40) of textile fabric
- Tensioning devices
- A belt (115-118) with fastening elements running at lengthwise along each side of the mat
- A strap (as shown in Figure 17) fastened to the backside of the mat and running crosswise to the mat's longitudinal axis and fastening elements (shown extending downwardly from the strap)
- A restraint (seat belt 122, 124)
- A central opening (inherent) at a lower end of the mat for a crotch strap (shown in Figure 13) to be run therethrough

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9, 11 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergeron ('572).

Bergeron teaches the features described above.

Bergeron lacks the teaching of tubular sleeves, the teaching of attaching the belts the sleeves using glue and the use of fleece material.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made to form the sleeves to have a tubular shape based on the equivalence of the sleeves/slots taught by Bergeron and the tubular sleeves claimed by applicant for their use in the vehicle art and the selection of these known equivalents to retain a belt therein would be within the level or ordinary skill in the art. It would have been obvious to one having ordinary skill in the art, at the time the invention was made to glue the belts within the sleeves of Bergeron based on the equivalence of the fastening methods of attaching the bottom of the belt within the sleeve/slot and gluing the belt to the sleeve as claimed by applicant for their use in the vehicle art and the selection of these known equivalents to retain a belt therein would be within the level or ordinary skill in the art. It would have been obvious to one having ordinary skill in the art, at the time the invention was made to partially cover the mat with fleece, since it has been held to be within the general skill of a worker in the art, to select a know material on the basis of its suitability for the intended use. In this case, it would have been obvious to use fleece to enhance rider comfort during prolonged use.



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8. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Makoski ('168) in view of Yanus et al. (US Patent 4,834,403)).

Makoski teaches the features described above.

Makoski lacks the teaching of several pairs of openings.

Yanus et al. teaches several pairs of openings for shoulder belts.

Based on the teachings of Yanus et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add several pairs of shoulder belt openings to provide a restraint to accommodate children of different heights.

#### ***Allowable Subject Matter***

9. Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suzuki shows a baby seat slip down preventing device.

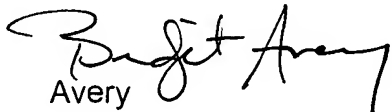
Smith shows an adjustable flexible seat.

Irby et al. shows a coacting infant/toddler seat/car seat/ stroller system.

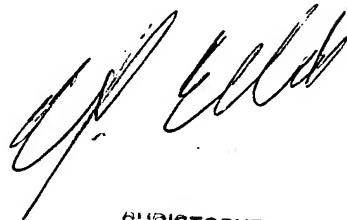
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Lahti et al. shows a baby carriage accessory.

11. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.

  
Avery

August 4, 2005



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